IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.4.2007

CORAM

THE HON'BLE MR.JUSTICE P.D.DINAKARAN
AND
THE HON'BLE MR.JUSTICE P.P.S.JANARTHANA RAJA

Writ Appeal Nos.2505 & 2774 of 2002

A.Sekar .. Appellant/third party in W.A.No.2505/02

The Managing Director
Tamil Nadu State Transport Corpn.
(Salem Division II) Ltd.
Dharmapuri. .. Appellant in W.A.No.2774/02

Vs.

1. V.Vijay Kamalraj

2. State Transport Authority
Chepauk, Chennai 600 005.

3. State Transport Authority
of Karnataka
M S Buildings
Vidhan Sowdha
Bangalore 2. .. Respondents in both W.As.

Appeals under Clause 15 of the Letters Patent against the common order of the learned Single Judge dated 2.7.2002 made in W.P.No.4541 of 2002. to issue a writ of certiorari calling for the records relating to the proceedings of the respondent herein viz State Transport Authority, Tamil Nadu Chepauk Chennai - 5 on proceedings in R. NO. E4/82671/2001 dated 3.1.02 and quash the same

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For Appellant in W.A.No.2505/02 : Mr.M.Palani

For Appellant in W.A.No.2774/02 : Mr.V.R.Kamalanathan

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For Respondent-1 : Mr.R.S.Ranjit Kumar

For Respondents 2&3 : Mr.G.Sankaran, Addl.G.P.

J U D G M E N T

(Delivered by P.D.DINAKARAN,J.)

The above appeals arise against the common order of the learned Single Judge dated 2.7.2002 made in W.P.No.4541 of 2002, which was filed challenging the proceedings of the first respondent dated 3.1.2002 refusing to grant temporary permit sought for by the writ petitioner to ply his vehicle from Bangalore to Harur.

2. Concededly, there is no inter-state agreement for the impugned route, viz. Bangalore to Harur. Even though the original authority, viz. the third respondent, State Transport Authority, Karnataka State granted permit, there was no counter signature by the Tamil Nadu State insofar as the route in Tamil Nadu is concerned. Pending such counter signature, the writ petitioner sought temporary permit and the same was refused by the State Transport Authority by proceedings dated 3.1.2002. The writ petitioner had not chosen to prefer any appeal before the State Transport Appellate Tribunal under Section 89(1)(d) of the Motor Vehicles Act, 1988, but had chosen to approach this Court directly under Article 226 of the Constitution of India.

3. The learned single Judge in his order dated 2.7.2002 directed the State Transport Authority, Tamil Nadu to consider and pass appropriate orders on the matter pending for counter signature within a period of four months and till the matter was finalised by the State Transport Authority, Tamil Nadu, the learned single Judge also permitted the writ petitioner to ply his vehicle bearing registration No.TN 45/X-3276 between Bangalore and Harur, by paying necessary tax, with a direction to the State Transport Authority, Tamil Nadu to accept the same from the writ petitioner.

4. Aggrieved by the said order, both the State as well as a third party, who is already operating in the said route, preferred the above writ petitions respectively.

5. It is a settled law that in a case of Inter-State routes, the State Government concerned are supposed to deliberate and decide the routes to be opened as inter-State routes by determining the number of trips each route was to have and prescribe other

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conditions for the smooth functioning of the Act to achieve its objective, which is claimed to be a social welfare legislation and in the absence of any reciprocal agreement between the States, grant of inter-State permit is illegal and without jurisdiction, vide Ashwani Kumar v. Regional Transport Authority ((1999) 8 SCC 364).

6. To make the statute workable, a purposive and meaningful construction must be given. A vacuum should not be created by way of the construction of the statute. In the absence of any route being fixed in terms of an agreement, the grant of permit for inter-State route would lead to a futile exercise. A mutual approval of the States concerned is, therefore, mandatory. The State Transport Authority of one State would have no jurisdiction to entertain an application for grant of an inter-State route, in the absence of an agreement entered into by the State concerned, vide A.Venkatakrishnan v. State Transport Authority ((2004) 11 SCC 207) wherein the Apex Court had agreed with the views taken in Ashwani Kumar v. Regional Transport Authority ((1999) 8 SCC 364).

7. That apart, the Apex Court cautions that the Court, by exercising the power of judicial review under Article 226 of the Constitution, cannot issue a Mandamus directing the statutory licensing authority to grant license, when the authorities themselves are yet to apply their mind and examine the applications for license on merits, vide State of U.P. v. Raja Ram Jaiswal ((1985) 3 SCC 131). The above ratio is applicable more in the case where the statutory appeals are available to the aggrieved party.

8. The Constitution Bench of the Apex Court, as early as in the year 1952, in Veerappa v. Raman & Raman Ltd. (AIR 1952 SC 192) held that the remedies for the redress of the grievances or the correction of the errors in the case of grant or refusal of permit is solely within the discretion of the Transport authorities and the same is not a matter of right.

9. If that be so, granting temporary permit, when there is no reciprocal agreement among the States concerned, is nothing but an act exceeding the jurisdiction conferred under judicial review. Hence, the direction of the learned single Judge to the State Transport Authority, Tamil Nadu to accept the tax to be paid by the writ petitioner to ply his vehicle bearing registration No.TN 45/X-3276 between Bangalore and Harur, stands quashed.

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In the result, the writ appeals are allowed in part. No costs. Consequently, WAMP No.4238 of 2002 is closed.
kpl

Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1. State Transport Authority
   Chepauk, Chennai 600 005.

2. State Transport Authority of Karnataka
   M S Buildings, Vidhan Sowdha
   Bangalore 2.

+2ccs to Mr. A.K. Mylsamy,Advocate sr no. 26065
+1cc to Mr. M. Palani, Advocate sr no. 25757
+ one cc to Mr. V.R.Kamalanathan, Advocate sr no. 25547

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